

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE, AT GREENEVILLE**

BRITNEY DIANE MASONER,

PLAINTIFF

V.

NO. _____

PAIGE NICOLE McGAHA,

,

DEFENDANT

COMPLAINT

1. Plaintiff was at all times relevant a citizen and resident of Alabama, residing at 683 Old Cahaba Drive, Helena, Alabama

2. Defendant Paige Nicole McGaha, was at all relevant times a citizen and resident of Whitesburg, Hamblen County, Tennessee, residing at 325 Simpson Road.

3. This Court has jurisdiction of this action for personal injury pursuant to 28 U.S Code §§ 1332 et seq, in that there is diversity of citizenship and the claim for damages exceeds \$75,000.

4. On or about August 8, 2014, the Plaintiff was operating her 2013 Mazda 6, traveling in a southwesterly direction on Highway 11-E, obeying the posted speed limits and all rules of the road when she attempted to move into the turning lane to make a left hand turn into the local Chick-Fil-A restaurant.

4. As she moved into the turning lane her vehicle was struck with great force in the right side and front by the Defendant, Paige Nicole McGaha operating a 2002 Honda Accord.

5. Defendant Paige Nicole McGaha had turned across two oncoming lanes of southwest bound traffic and was moving into the turning lane which was already occupied by the Plaintiff

where the collision occurred. Defendant was attempting to travel northeast on Highway 11-E in a direction opposite that of the Plaintiff. She entered the highway from Papa John's Pizza's private driveway.

6. The Plaintiff suffered severe and permanent injuries as a result of the force of the impact and has incurred substantial medical expense, pain and suffering and loss of enjoyment of life as well as loss of earnings as a result of the Defendant's negligent operation of her automobile. She has been diagnosed with piriformis syndrome, has been treated with multiple injections of Botox into her piriformis among other treatments and medications, and has incurred medical expenses in excess of \$37,000.

7. The Plaintiff will incur medical expenses, pain and suffering, loss of earnings and enjoyment of life in the future as her injuries are permanent in nature.

8. Defendant McGaha was guilty of common law negligence in failing to keep an adequate lookout ahead and failed to keep her vehicle under proper control.

9. Defendant McGaha was guilty of negligence per se in that her actions and failure to act violated the following statutes:

TCA §§ 55-8-136 – Failure to exercise due care;

TCA §§ 55-8-152 – Failure to assure her turning action could be made with reasonable safety.

TCA §§ 55-8-131 – Failure to yield the right of way to all vehicles on the Highway when attempting to enter or cross a highway from a private road or driveway.

10. The negligence of the Defendant, Paige Nicole McGaha was the sole and proximate cause of the collision and resulting property damages and personal injuries suffered by the Plaintiff

11. The Plaintiff was guilty of no degree or percentage of comparative fault which would serve to reduce the damages recoverable by her in this action. She was obeying all Rules of the Road and posted speed limit and could have done nothing to prevent the collision.

12. As a direct and proximate result of the Defendant's negligence the Plaintiff has undergone numerous diagnostic tests, physical therapy and has been prescribed medications, all of which add to the medical expenses and pain and suffering and loss of enjoyment of life experienced by the Plaintiff.

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF PRAYS THAT:

1. Summons issue and be served together with a copy of this Complaint upon the Defendant, requiring their answer hereto.
2. Plaintiff have judgment enter in her favor against the Defendant, for compensatory damages for medical expenses, loss of earnings, past and future, pain and suffering, past and future, loss of enjoyment of life, both past and future, and for permanent disability in the amount of \$400,000.
3. A jury be joined to try all issues of fact.
4. For such further and other general relief to which Plaintiff may show herself entitled.

BRITNEY DIANE MASONER

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COST BOND

We, CAPPS, CANTWELL, CAPPS & BYRD, secure all costs of this action.

CAPPS, CANTWELL, CAPPS & BYRD

By: S/ Christopher P. Capps
Christopher P. Capps, Partner